

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRUCE TREVINO,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:14-cv-00095

SARA R. WELCH LIVING TRUST,

Defendant.

REPORT AND RECOMMENDATION

Plaintiff initiated this matter on January 27, 2014, against Sara R. Welch Living Trust. Having granted Plaintiff's motion to proceed as a pauper, the Court has conducted an initial review of the complaint pursuant to 28 U.S.C. § 1915(e)(2) to determine whether it is frivolous, malicious, or fails to state a claim upon which relief can be granted. Having conducted this initial review, the Court concludes that Plaintiff's complaint must be dismissed for failure to state a claim upon which relief may be granted.

Pursuant to Federal Rule of Civil Procedure 12(b)(6), a claim must be dismissed for failure to state a claim on which relief may be granted unless the "[f]actual allegations [are] enough to raise a right for relief above the speculative level on the assumption that all of the complaint's allegations are true." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007).

It appears that the Court does not have jurisdiction over the claim Plaintiff is attempting to bring. Plaintiff objects to judgment entered by the Hon. Jeffrey C. Middleton in St. Joseph County, Michigan. The case relied on by Plaintiff, *Kalb v. Feuerstein*, 308 U.S. 433 (1940)

is distinguishable and thus not relevant. As such, the complaint asserts no facts which, if proven, would entitle Plaintiff to relief in this court.

CONCLUSION

For the reasons articulated herein, the undersigned recommends that Plaintiff's complaint be **dismissed** with prejudice.

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Date: January 29, 2014

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge